

---

**KATHERINE SWINTON**

University of Toronto

Faculty of Law

There is a continuing problem in discussions like that at the Edmonton symposium because of the differing perspectives of participants on the "game" which we are in. For some, the project is the repair of the existing constitution; for others, it is a more ambitious rebuilding; for still others, it is a process of deconstruction and Québec separation, with or without a subsequent realignment. Without some consensus on the project, it is difficult to engage in profitable discussion about the process for change and the substance of new arrangements.

While it is worthwhile to consider the implications of separation by Québec, it is important to realize the direction in which constitutional debate is now turning in the country. We are now into a consideration of repairing or rebuilding the constitution. Whether it is the former or the latter will, to some extent, be determined by the tone set in the document on constitutional reform promised by the federal government by September of 1991 (although it will be hard to keep the agenda narrow once the public is invited to engage in the discussion).

Even though some provincial premiers and various individuals continue to call for a constituent assembly, the federal government has made at least a preliminary decision about the process to be followed by establishing a joint House of Commons-Senate committee that will hold public hearings and meetings with provincial legislators and legislative committees on the federal document. The decision has been made to use a parliamentary forum to consult with the public, rather than engage in a debate about the form and nature of a constituent assembly — a debate which I feel strongly would distract us from the important issues of substance which face us.

It is now time to concentrate more directly on those issues of substance, especially in the academic community in symposia and conferences to come, on questions about the structure and powers of national institutions, the recognition of the claims of Québec and aboriginal peoples, and the changes necessary to the distribution of powers and responsibilities between federal and provincial governments. The debate must be focussed to be productive. No longer can we talk somewhat abstractly about the need for more centralization or decentralization, for some degree of asymmetry, for reshaping national institutions to be more responsive to regional and other types of claims. It is time to discuss proposed changes to the constitution in a disciplined and focused manner.

---